

prosper in the competitive environment of the free market. This acts as a strong motivation for industry to fix a Y2K problem before any dispute becomes a legal one.

This will be true, however, only as long as businesses are given an opportunity to do so and are not forced, at the outset, to divert precious resources from the urgent tasks of the repair shop to the often unnecessary distractions of the court room. A business and legal environment which encourages problem-solving while preserving the eventual opportunity to litigate may best insure that consumers and other innocent users of Y2K defective products are protected.

There are not at least 117 bills pending in State legislatures. Each bill has differing theories of recovery, limitations on liability, and changes in judicial procedures, such as class actions. This creates a whole slew of new problems. They include forum shopping. States with greater pro-plaintiff laws will attract the bulk of lawsuits and class action lawsuits. A patchwork of statutory and case law will also result in uneven verdicts and a probable loss of industry productivity, as businesses are forced to defend or settle ever-increasing onerous and frivolous lawsuits. Small States most likely will set the liability standard for larger States. This tail wagging the dog scenario undoubtedly will distort our civil justice system.

Some States are attempting to make it more difficult for plaintiffs to recover. Proposals exist to provide qualified immunity while others completely bar punitive damages. These proposals go far beyond the approach taken in the Judiciary and Commerce Committees' bills of setting reasonable limits on punitive damages. Other States may spur the growth Y2K litigation by providing for recovery without any showing of fault. A variety of different and sometimes conflicting liability and damage rules create tremendous uncertainty for consumers and businesses. If we want to encourage responsible behavior and expeditious correction of a problem that is so nationally pervasive, we should impose a reasonable, uniform Federal solution that substantially restates tried and true principles of contract and tort law. If there is an example for the need for national uniformity in rules, this has to be it.

The most appropriate role we in Washington can play in this crisis is to craft and pass legislation that both provides an incentive for industry to continue its remediation efforts and that preserves industry's accountability for such real harm as it is legally responsible for causing.

This will involve a delicate balancing of two equally legitimate public interests: the individual interest in litigating meritorious Y2K-related claims and society's collective interest in remediating Y2K as quickly and efficiently as possible. We need to provide an incentive for technology providers

and technology consumers to resolve their disputes out of court so that precious resources are not diverted from the repair shop to the court room.

Let's face it, the only way a bill will pass is if it has significant bipartisan support. I think Congress can pass a bipartisan bill that is both fair and effective. Whatever bill is voted upon by this Chamber, it should at a minimum contain the following provisions that:

Preserves the right to bring a cause of action;

Requires a "problem-solving" period before suits can go forward. This delay must be reasonable and if so will spur technology providers to spend resources in the repair room instead of diverting needed capital;

Provides that the liability of a defendant would be limited to some percentage of the company's fault in causing the harm. This will assure fairness and lessen the push to go after deep pockets;

Allows the parties to a dispute to request alternative dispute resolution, or ADR during the problem-solving period;

Limits onerous punitive damages;

Contains a duty to mitigate. Plaintiffs should not be able to recover for losses they could have prevented;

Contains a contract preservation provision. This preserves the parties' bargain and prevents States from retroactively instituting strict liability;

Codifies the economic loss doctrine. This preserves the restatement of torts rule that you cannot get economic loss for tort injuries;

Allows evidence of reasonable efforts in tort. This section is very important because it prevents States from retroactively imposing strict liability or negligence per se; and

Contains a class action provision. The class action provision must contain a section that common material defect must be demonstrated to certify claims. It should also contain a section that allows for removal of State class actions to Federal courts based on minimal diversity.

Let me end by emphasizing that the Y2K problem presents a special case. Because of the great dependence of our economy, indeed of our whole society, on computerization, Y2K will impact almost every American in the same way.

But the problem and its associated harms will occur only once, all at approximately the same time, and will affect virtually every aspect of the economy, society, and Government. What we must avoid is creating a litigious environment so severe that the computer industry's remediation efforts will slacken and retreat at the very moment when users and consumers need them to advance with all deliberate speed.

I recognize that if we are to enact worthwhile Y2K problem-solving legislation this year, we must all work together—Democrats and Republicans—in a cooperative manner which pro-

duces a fair and narrowly tailored bill. I think we can do this. We can produce a measure which has broad political support, can pass the Congress, and become law.

I appreciate the efforts of the distinguished Senator from Arizona and others to try and get this bill through and will do everything in our power to assist him and help him to do so.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, all I will say is that we had a couple of long meetings of negotiations on this issue. We have still not resolved a couple of outstanding problems. They are tough, very difficult. I am not sure we will be able to resolve them, but we will continue negotiating tonight and into tomorrow. It is my understanding that the majority leader will move back on the bill at noon tomorrow, and we will have the morning to continue those negotiations.

I hope we can reasonably sit down together and resolve these remaining problems. We have resolved almost all of them, but there are two or three very difficult issues remaining. All I can do is assure my colleagues, I will make every effort to get them resolved as quickly as possible.

#### JUVENILE GUN VIOLENCE PREVENTION ACT

Mr. DURBIN. Mr. President, there are many of us who believe that today's debate should have been focused on protection of another group, not the businesses of America but the children of America, because, try as we might to capture public attention about the necessity for Y2K legislation, American's attention is still riveted on Littleton, CO, and Columbine High School.

We have had meetings across my home State of Illinois, as my colleagues have had across their States, talking to leaders, schoolchildren, police, psychologists, virtually every group imaginable, about what happened in Littleton, CO.

Sadly, it is a repetition of events which have occurred too often in our recent history.

October 1, 1997, Pearl, MS, a 16-year-old boy killed his mother, went to high school, and shot nine students, two fatally.

December 1, 1997, West Paducah, KY, three students were killed, five were found wounded in the hallway of Heath High School by a 14-year-old.

March 24, 1998, Jonesboro, AR, 4 girls and a teacher shot to death, 10 people wounded, during a false fire alarm in middle school when two boys age 11 and 13 opened fire from the woods.

April 24, 1998, Edinboro, PA, a science teacher shot to death in front of students at an eighth-grade dance by a 14-year-old.

May 19, 1998, Fayetteville, TN, 3 days before graduation, an 18-year-old honor student, allegedly opened fire in a

parking lot of a high school, killing a classmate who was dating his ex-girlfriend.

May 21, 1998, Springfield, OR, 2 teenagers were killed and more than 20 people were hurt when a 15-year old boy allegedly opened fire on a high school; the boy's parents were killed at their home.

Then there is Littleton, CO, 13 victims and the 2 alleged perpetrators, dead, as a result of gunfire that killed so many. Time and again we have been told these are unusual circumstances and not likely to happen again.

Sadly, history has proven they have become all too common place. Can anyone believe that our hometown, the high school in our home city, is immune from this sort of violence? I don't believe so. Frankly, it is because there are many troubled children. That is a problem which needs to be addressed directly and seriously.

It is a responsibility that falls on the shoulders of parents first, classmates, teachers, principals, psychologists, counselors, those who see the warning signs, to bring these children to the attention of others. Troubled children are not new to society. They have been there for many, many years. Troubled children in my generation waited on the parking lot to punch you or they threw something at you; troubled children today find a gun. That troubled child moves from being a sad reality to a tragedy, a tragedy in multiple numbers, time and time again.

Today I come to the floor with several of my colleagues—Senator KENNEDY, Senator SCHUMER, Senator BOXER, and others—prepared to offer an amendment to this bill to say to my colleagues that protecting business is important; protecting children is more important. As important as the Y2K debate is to many business interests, families across America are not going to stay up tonight watching television and talk about Y2K; they may and they should talk about violence in schools and how it is becoming epidemic in America.

The legislation we were prepared to offer today, the Juvenile Gun Violence Prevention Act, has about eight or nine provisions. We had the amendment prepared and we had our cloture motion signed, by 16 Members of the Senate. We were going to make this a day for at least a debate, if not a political confrontation, as to why the Senate fails to consider that legislation at a time when America wonders if we have become impotent when it comes to dealing with violence in our schools.

I am happy to report a development occurred on the floor a short time ago which really has changed the face of this debate. Senator TRENT LOTT, the majority leader, the Republican majority leader, came to the floor. I understand he was apprised of our intentions and he made an announcement that within 2 weeks we will be able to debate these issues about school violence, guns, and related issues here on the floor of the Senate.

Some may say, Well, what else would you do in the U.S. Senate? My friends, for 2 years we have faced committees on Capitol Hill which basically will not report out any bills related to guns. We don't talk about that subject around here. It is as if it is somehow sacred and you can't bring it up and you can't debate it. That is why Senator LOTT's concession today that we will have this chance to vote on important legislation relative to our schools is so important across America.

I say to all those who follow the issue, my heart goes out to the victims and their families in Littleton, CO. It goes out, as well, to the other students whose lives will never ever be the same, having witnessed this horror and this violence. It goes out to students across America concerned about their schools.

How many more of our schools have to be desecrated by bullets and blood? How many more of our teachers and students have to be prepared to give up their lives at school to defend their classmates? How many more parents will have to search their memories to try to remember the last words they said to their child as he went off to his last day in school, his last day on Earth? How many more deaths? How many more funerals?

It is time now that America will come together and say to this Congress, as representative of the American people, Do something. We can't solve all these problems, we can't make every troubled kid normal again, but please, reduce the firepower of these children who have such twisted minds, these children who are bent on violence.

This legislation which we are proposing I hope will become bipartisan legislation. I am sorry to report that it will be almost historic if it is, but some Senators have stepped forward in the past from the Republican side to support this legislation. I hope some will show the courage to do that again.

This legislation addresses a number of points, some that are so obvious it is a shame we have to legislate. Should a gunowner be responsible for the safe storage of his or her gun? Should a gunowner who knows that children are in the house have to put the gun under lock and key or put a trigger lock on it? Sixteen States say yes, this is the law. If you don't, you, as a gunowner, will be held criminally responsible. We say this should be a national law. Mr. President, 13 or 14 children every day in America die by gun violence. Columbine High School focuses our attention on 1 day and 15 lives, but every single day there is a massacre spread across this country that doesn't capture our attention like Littleton, CO.

We also have a provision which some will find incredible. Did you know that currently under Federal law a child is prohibited, with few exceptions, from possessing and purchasing a handgun, but there is no prohibition against possessing and purchasing a semiauto-

matic weapon? That is currently the law. We hope to change it.

Did you know that if a firearm dealer willfully and knowingly sells a gun to a child in violation of the law, there is no automatic revocation of their license? I think there should be.

Did you know, as well, that at gun shows across America all of the provisions of the Brady law for background checks and waiting periods do not apply? We suspect—we are still waiting to hear—that one of the weapons used by these children in Littleton, CO, to kill the others was purchased through a straw purchaser at a gun show and given to the child. Is America unable to deal with this? I think we can, and we should.

Did you know you can buy firearms over the Internet? How in the world could you responsibly sell a firearm over the Internet, not knowing on the other side if the purchaser is 15, 16, 17 years old, or a former criminal, or someone with a history of violent mental illness? To me, these things seem so obvious.

I yield for a question from my colleague from California, who has been a supporter on this issue.

Mrs. BOXER. I thank my friend from Illinois for putting together this very important piece of legislation which has a number of fine ideas to protect our children. I associate myself with the Senator's remarks.

While we deal with the computer problem, we have essentially not been able to offer this bill today. It is hard for me to believe that. The majority leader said it would not be right to deal with this because we are still coping with the sorrow of Littleton, CO. The best thing we can do in the name of those children is to do something to stop this from happening again.

I had a question for my friend, because I want his reaction, his comment to this. In the 11 years of the Vietnam war, we lost 58,000 Americans, a tragedy that brought this country to its knees. Every institution was questioned. The country has never been the same. We are just getting over it.

In the last 11 years, I say to my friend, 400,000 people have been killed in this country by firearms. Let me repeat that: 58,000 killed in the 11 years of the Vietnam war; 400,000 killed in the streets of this country. That doesn't even count three times the number of people who wind up in hospitals, nursing wounds that will be with them for the rest of their life. That doesn't even put a dollar figure on a couple billion of dollars a year to pay for the wounds to those people. Does my friend think there has to be some outrage here?

The people in this country are looking for leadership. Our Chaplain led us in the most magnificent prayer I have ever heard him give, and he gives good prayers. I have to say to my friend, I have been praying for too many people who were gunned down, including one of my son's best friends who did nothing more than visit his wife in her law

firm, when a man walked in with a TEC-9—the same gun that was used by these kids—and mowed him down as he threw himself over his wife to save her life, which he did. He died.

Prayers are very important right now. We turn to God at these moments, but we also have to turn to ourselves. What the Senator is saying is, it is time for this Senate to do something about this problem.

I would like to get his reaction to those numbers I put out here. Again, I thank him for this opportunity to comment on his legislation.

Mr. DURBIN. I thank my friend and colleague from California.

My reaction is this: I am concerned about two things. I am concerned that the American people have given up on us. I believe they have come to the conclusion that for political reasons we cannot do the obvious; we cannot pass the laws to keep guns out of the hands of kids. I think they are wrong. I hope we can prove them wrong.

Certainly the record of the last few decades suggests that we have been blind to this carnage in our streets, people living in fear of walking down the street in Los Angeles or Chicago, kids living in fear of walking on the playground. There is a school on the west side of Chicago called the Austin Career Academy. When that high school is about to adjourn for the day, let the children go home, the police come and close the streets around the schools so that the gang bangers cannot drive by and shoot the children as they come out of the schools.

That is daily life in too many places in America. We can argue about what we can do and why the people should give up on this Congress. I hope they do not. But we cannot give up on our children, because if we do, we have failed our most fundamental responsibility.

I know this is tough, because some of our colleagues, even on the Democratic side and on the Republican side, have great concerns about the gun lobby and what they might do if they vote for any legislation. It is a tough vote, a hard vote, but I hope they will step back for a second and say we cannot allow this violence and killing to continue in American schools.

Mrs. BOXER. Will the Senator yield one more moment?

Mr. DURBIN. Definitely.

Mrs. BOXER. I want to pick up on that point because there is a gun lobby. We all see it, we all know it, there are a lot of bucks behind it. But there is another lobby out there, the people, and the people want us to do sensible measures to protect our children.

I want to make one last point to my colleague, and that is, in my home State of California, the largest State in the Union by far—34 million people—the No. 1 cause of death among children from the minute they are born until they are 18, the No. 1 cause of death is gunshots—No. 1 cause of death.

If we had a disease that was the No. 1 cause of death, we would be working on this floor feverishly until we addressed that disease. This is a disease.

I have to say to my friend, I watched him take on the tobacco lobby and win. There is not a time I do not get on an airplane and realize I do not have to smell that smoke and have that in my lungs that I don't think of him and his courage in that matter. When he came over here, I just knew reinforcements were coming for some of these tough issues, and this is one of them.

This is a tough one, but that is what we are here for. It is very easy to vote for the easy bills. It is easy to vote for "Children's Appreciation Day." It is easy to do that. It is a little tougher when you take on the gun lobby.

I hope we are judged by this. My experience is that people respect you, even if they might not agree with you, if you have the guts to do something about a problem.

I say to my colleagues on both sides of the aisle, please join with us. Some of these issues are so easy for you to vote for. For example, one of them you have in here says if a local district has a proposal in for more cops on the beat, waive the matching fund if the community police are assigned to the schools. That is one that does not even touch a gun. But today we are told by the majority leader that he believes it would be unseemly to act. That is his view. I respect it. I don't think it is unseemly to act in the wake of this tragedy. I think people want us to act in the wake of this tragedy.

Thank you. I yield back to my colleague.

Mr. DURBIN. Mr. President, I will close by saying I am happy that the majority leader, Senator LOTT, has made this commitment publicly on the floor of the Senate that within 2 weeks we will have debate on legislation such as I have described here. The important thing about that debate is not what is said on the floor of the Senate between Senators. What is important between now and that 2-week deadline is what is said by the American people to those who serve in the Senate.

For those who are watching the proceedings of the Senate or who read the RECORD, I hope you will understand that if you are not part of this debate, if you do not pick up your telephone, if you do not take a pen and write a letter, if you do not send an e-mail saying, "For goodness sake, do something about violence in our schools and the proliferation of guns in the hands of children," I can guarantee you that the outcome of this debate is going to be a disappointment to families across America.

Do not give up on Congress. This is an institution which is serving this country and all of the American families in it. The families have to come forward now. They have to be heard from. It is not enough to say the school year is coming to an end, so that will be the end of school violence. There

will always be another school year, history tells us, sadly, always an opportunity for another tragedy. Let us learn something valuable from the suffering of the families in Littleton, CO. Let us vow, Democrat and Republican alike, that we will do everything in our power to reduce school violence and make this a safer place for our children.

I yield back my time.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time?

#### UNANIMOUS-CONSENT AGREEMENT—H. CON. RES. 92

Mr. CAMPBELL. Mr. President, I ask unanimous consent that, notwithstanding receipt of the resolution, the Senate now begin an hour of debate equally divided in the usual form with respect to H. Con. Res. 92, a resolution relating to the tragedy in Littleton, CO. I further ask unanimous consent that no amendments be in order to the preamble or resolution, and that immediately following the debate time, the Senate proceed to a vote on the adoption of the resolution, with no intervening action or debate.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. CAMPBELL. Mr. President, I also ask unanimous consent to display three ceremonial Indian objects as I make my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### TRAGEDY IN LITTLETON, COLORADO

Mr. CAMPBELL. Mr. President, many of my colleagues in the Senate will speak on this resolution today. I know that the families and, indeed, all of Colorado appreciate their deep and heartfelt sorrow.

On my father's side, as you know, Mr. President, I am Cheyenne, so I would like to begin speaking in the manner of his people.

This fan comes from the eagle. The old people call the eagle the keeper of the Earth, the one that watches over the domain of the Grandfather Spirit.

This pipe carries the smoke with the words and the thoughts from the people who use it to the Creator.

This flute is used to carry songs of love, forgiveness, and brotherhood.

So, Mr. President, I hope that the voices of all the council fires and pipes send our pleas as Senators as we ask for guidance as we try to rid ourselves of violence in this Nation.

I would like the great winged brother that he has chosen as our national symbol of freedom and justice to oversee all of his children. Further, I would like the winds to carry the sweetness and harmony and tolerance of the flute to the Grandfather Spirit.

Mr. President, traditional Indian people do not believe that death is finite. Indeed, they believe that mortal remains return to Mother Earth from